

Application for Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Western District of Washington

FILED	LODGED
RECEIVED	
Feb 18, 2020	
CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY _____	DEPUTY

In the Matter of the Search of:
DEONDRE HALL-HURLING

Case No. MJ20-5028

APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE

I, Timothy Johnson, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one of more tubes or vials should be taken from the following person:

DEONDRE HALL-HURLING

located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- ☐ _____


This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- ☒ By reliable electronic means. ☐ Telephonically (and recorded).


TIMOTHY JOHNSON
SUPERVISORY POLICE OFFICER

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 18th day of February, 2020.


THE HON. DAVID W. CHRISTEL
UNITED STATES MAGISTRATE JUDGE

Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Western District of Washington

In the Matter of the Search of:
DEONDRE HALL-HURLING

Case No.

A SEARCH AND SEIZURE WARRANT FOR A BLOOD SAMPLE

To: Any authorized law enforcement officer

An application by a federal law enforcement officer requests the search of the following person located in the Western District of Washington

DEONDRE HALL-HURLING

I find that the affidavit establishes probable cause to search and seize the person described above for evidence of the following crime or crimes:

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- ☐ _____

YOU ARE COMMANDED with the assistance of a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from **DEONDRE HALL-HURLING**. The extracted blood sample may later be tested to determine the blood alcohol level and/or the presence of any drugs that may have impaired the ability of this individual to drive. The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to any United States Magistrate Judge in this District.

Date and time issued: 2/18/2020 at 5:00 a.m.

City and state: Tacoma, Washington



THE HON. DAVID W. CHRISTEL
UNITED STATES MAGISTRATE JUDGE

RETURN		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:
Inventory made in the presence of :		

A sample of blood consisting of _____ tubes or vials of blood was extracted from the person of _____ in the County of _____, on _____, 201____, at _____ (time) by _____,

who is employed by _____, as a:

- ☐ Physician
- ☐ A registered nurse
- ☐ A licensed practical nurse
- ☐ A nursing assistant as defined in chapter 18.88A of the Revised Code of Washington
- ☐ A physician assistant as defined in chapter 18.71A of the Revised Code of Washington
- ☐ A first responder as defined in chapter 18.73 of the Revised Code of Washington
- ☐ An emergency medical technician as defined in chapter 18.73 of the Revised Code of Washington
- ☐ A health care assistant as defined in chapter 18.135 of the Revised Code of Washington
- ☐ A technician trained in withdrawing blood

Acknowledged by Person from whom blood was extracted: _____

Date: _____ Time: _____

Acknowledged by Person who extracted the blood: _____

Date: _____ Time: _____

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated magistrate judge.

City & State: _____ Date: _____

Executing Officer's Signature

Printed Name & Title

AFFIDAVIT OF TIMOTHY JOHNSON

AFFIANT BACKGROUND

2. The entire incident I am about to describe occurred in the jurisdictional boundaries of Joint Base Lewis-McChord, Washington.

3. The information presented in this affidavit is:

- ☒ Based on my personal observations and interviews that I have conducted, along with information conveyed to me by a Washington State Patrol Trooper and the Lakewood Police Department.

INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

4. The purpose of this affidavit is to seek a search warrant to authorize me or other law enforcement officers to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from **DEONDRE HALL-HURLING** (hereafter "the Subject"). This warrant is requested for the purpose of gathering evidence of the following crime(s):

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- ☐ _____

5. I am seeking to present this application for a search warrant by electronic means because the natural metabolization of alcohol or drugs in the bloodstream may result in the loss of this evidence in the time it would take to present a search warrant application in a more traditional fashion.

SUMMARY OF PROBABLE CAUSE

6. As a result of my duties I am familiar with the jurisdictional boundaries of Joint Base Lewis-McChord in Pierce County, Washington. The incident described below occurred within these jurisdictional boundaries, an area within the special maritime and territorial jurisdiction of the United States as defined in 18 U.S.C. § 7.

7. The initial contact with the Subject occurred on February 18, 2020 at approximately 1:23 a.m. at Joint Base Lewis-McChord, Washington.

8. Based on my training and experience, I believe the Subject may be under the influence of intoxicants or drugs for the following reasons: I was dispatched by the Joint Base Emergency Communications Center to the Woodbrook Gate, located on Joint Base Lewis-McChord, Washington, following a request for assistance by the Lakewood Police Department. Off-Duty Washington State Patrol ("WSP") Trooper Robert Jones, who observed the Subject driving well below the speed limit on Interstate 5-North and exit Gravelly Lake Drive. WSP Trooper Jones stated the Subject turned right onto Gravelly Lake Drive, traveling east bound towards the McChord Field Woodbrook Gate Access Control Point. Thereafter, the Subject made a 90 degree left turn off the roadway down a steep embankment before striking a Joint Base Lewis-McChord perimeter fence. WSP Trooper Jones observed the Subject exit his vehicle from the driver's seat and noted there were no other passengers in the vehicle.

9. Prior to my arrival, the Subject was advised of his legal rights by Lakewood Police Department Officer J. Vahle. Upon my contact with the Subject, I detected an obvious odor an alcoholic beverage emanating from his person. The Subject was swaying in all directions while standing and his speech was slurred and his responses were delayed. I asked the Subject if he would be willing to submit to a series of Standardized Field Sobriety Tests to determine if he was safe to drive, to which the Subject refused. At 1:33 a.m., the Subject was placed under arrest for suspicion of Driving Under the Influence. I advised the Subject of his legal rights again while transporting him to the Joint Base Lewis-McChord substation for further processing.

1 10. Upon arrival at the Joint Base Lewis-McChord substation, the Subject
2 stated he needed to use the restroom. I advised the Subject that as soon as I removed his
3 handcuffs, I would escort him to the restroom. While removing the handcuffs, the
4 Subject began urinating on the floor inside of the interview room. I asked the Subject if
5 he still needed to use the restroom and he said no. I escorted the Subject into the BAC
6 room to begin the BAC process, and again advised the Subject of his legal rights using
7 the Washington State DUI Arrest Report. The Subject refused to sign the form indicating
8 he understood his rights, however, he indicated that he wished to speak to an attorney. At
9 2:10 a.m., I made contact with the Federal Public Defender's Office and spoke with
10 Federal Public Defender John Carpenter. Mr. Carpenter spoke with the Subject. After
11 speaking with the Subject, Mr. Carpenter asked to speak to me. While speaking with Mr.
12 Carpenter, he informed me that he advised the Subject to submit to breath testing and
13 refuse to answer any further questions.

14 11. After being afforded the opportunity to speak with the Federal Public
15 Defender, the Subject was escorted back to the BAC room, where he was advised of the
16 Implied Consent Warning on the Washington State DUI Arrest Report, which he refused
17 to sign. However, the Subject indicated he would be willing to submit to breath testing.
18 During this time, the Subject was not following directions and was talking incoherently.
19 I held out the breath testing tube for the Drager breath test instrument and asked the
20 Subject to provide a breath sample. The Subject took a deep breath and blew while the
21 mouth piece to the breath test tube was approximately 12 inches from his face. I
22 instructed the Subject that he needed to hold the breath test tube in his hand, press his lips
23 to the mouth piece and blow into the breath test tube until told to stop. The Subject held
24 the breath test tube and pressed his lips to the mouth piece but continued breathing
25 through his nose. I advised the Subject that if he refused to provide a breath sample, he
26 would be listed as a refusal. The Subject failed to provide a breath sample and was listed
27 as a refusal.

28 12. The Subject:

☒ Has refused to take a breath Alcohol test on an instrument approved by the State Toxicologist or a federal agency for such breath testing.

13. A sample of blood extracted from the Subject, if taken within a reasonable period of time after he/she last operated, or was in physical control of, a motor vehicle, may be tested to determine his/her current blood alcohol level and to detect the presence of any drugs that may have impaired his/her ability to drive. This search warrant is being requested within approximately three hours after the Subject ceased driving or was found in physical control of a motor vehicle.

CONCLUSION

14. For the reasons stated above, I request authority to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A of the RCW, a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or a technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from DEONDRE HALL-HURLING.

15. This application for a warrant is being presented electronically pursuant to Fed. R. Crim P. 4.1 & 41(d)(3).

1 I certify (or declare) under penalty of perjury under the laws of the United States
2 that the foregoing is true and correct to the best of my knowledge, information and belief.

3 Dated this 18 day of February, 2020.

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6 TIMOTHY JOHNSON, AFFIANT
7 SUPERVISORY POLICE OFFICER
8 JOINT BASE LEWIS-MCCHORD

9 The above-named agent provided a sworn statement attesting to the truth of the
10 foregoing affidavit on this 18th day of February, 2020.

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12 THE HON. DAVID W. CHRISTEL
13 UNITED STATES MAGISTRATE JUDGE
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